

Introduced by Senator DuchenyFebruary 18, 2005

Senate Constitutional Amendment No. 9— A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (b) of Section 14 of Article II thereof, by amending subdivision (l) of Section 8 of Article III thereof, by amending subdivision (b) of Section 18 of Article IV thereof, by amending subdivision (b) of Section 5 of, and by amending subdivision (f) of Section 14 of, Article V thereof, by amending subdivision (a) of Section 10 of Article VII thereof, by amending subdivision (j) of Section 3 of, by amending subdivision (g) of Section 11 of, by amending Sections 17, 18, and 19 of, by amending subdivision (h) of Section 28 of, and by adding Section 17.5 to, Article XIII thereof, by amending the ninth paragraph of subdivision (d) of Section 22 of Article XX thereof, and by amending the heading of, and by amending Section 1 of, Article XXI thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 9, as introduced, Ducheny. California Tax Commission.

The California Constitution establishes the State Board of Equalization comprised of 5 voting members, provides for the election, recall, and filling of vacancies of board members, and prescribes various powers and duties of the board in connection with property taxes, insurance taxes, and alcoholic beverage taxes.

This measure would change the name of the board to the California Tax Commission and increase the membership to 9 voting members, as provided. The measure would require the commission, in addition to performing the duties of the former board, to collect and administer taxes on or measured by income and taxes withheld from wages, and

to conduct administrative review of state tax matter determinations. The measure would also make necessary conforming changes in various other constitutional provisions.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 WHEREAS, It is the intent of the Legislature to change the
2 name of the State Board of Equalization to the California Tax
3 Commission; and

4 WHEREAS, It is the intent of the Legislature that the
5 California Tax Commission will continue the existing duties of
6 the State Board of Equalization as well as assume the duties of
7 collecting and administering the state income tax; and

8 WHEREAS, It is the intent of the Legislature to streamline and
9 consolidate California's tax collection agencies to save taxpayer
10 funds and to simplify administration of our tax system; now,
11 therefore, be it

12 *Resolved by the Senate, the Assembly concurring,* That the
13 Legislature of the State of California at its 2005-06 Regular
14 Session commencing on the sixth day of December 2004,
15 two-thirds of the membership of each house concurring, hereby
16 proposes to the people of the State of California that the
17 Constitution of the State be amended as follows:

18 First—That subdivision (b) of Section 14 of Article II thereof
19 is amended to read:

20 (b) A petition to recall a statewide officer must be signed by
21 electors equal in number to 12 percent of the last vote for the
22 office, with signatures from each of ~~5~~ *five* counties equal in
23 number to 1 percent of the last vote for the office in the county.
24 Signatures to recall Senators, ~~members~~ *Members* of the
25 Assembly, members of the ~~Board of Equalization~~ *California Tax*
26 *Commission*, and judges of courts of appeal and trial courts must
27 equal in number 20 percent of the last vote for the office.

28 Second—That subdivision (l) of Section 8 of Article III
29 thereof is amended to read:

30 (l) "State officer," as used in this section, means the Governor,
31 Lieutenant Governor, Attorney General, Controller, Insurance
32 Commissioner, Secretary of State, Superintendent of Public
33 Instruction, Treasurer, member of the ~~State Board of~~

1 ~~Equalization~~ *California Tax Commission*, and Member of the
2 Legislature.

3 Third—That subdivision (b) of Section 18 of Article IV
4 thereof is amended to read:

5 (b) State officers elected on a statewide basis, members of the
6 ~~State Board of Equalization~~ *California Tax Commission*, and
7 judges of state courts are subject to impeachment for misconduct
8 in office. Judgment may extend only to removal from office and
9 disqualification to hold any office under the State, but the person
10 convicted or acquitted remains subject to criminal punishment
11 according to law.

12 Fourth—That subdivision (b) of Section 5 of Article V thereof
13 is amended to read:

14 (b) Whenever there is a vacancy in the office of the
15 Superintendent of Public Instruction, the Lieutenant Governor,
16 Secretary of State, Controller, Treasurer, or Attorney General, or
17 on the ~~State Board of Equalization~~ *California Tax Commission*,
18 the Governor shall nominate a person to fill the vacancy who
19 shall take office upon confirmation by a majority of the
20 membership of the Senate and a majority of the membership of
21 the Assembly, and who shall hold office for the balance of the
22 unexpired term. In the event the nominee is neither confirmed
23 nor refused confirmation by both the Senate and the Assembly
24 within 90 days of the submission of the nomination, the nominee
25 shall take office as if he or she had been confirmed by a majority
26 of the Senate and Assembly; provided; that, if ~~such~~ *that* 90-day
27 period ends during a recess of the Legislature, the period shall be
28 extended until the sixth day following the day on which the
29 Legislature reconvenes.

30 Fifth—That subdivision (f) of Section 14 of Article V thereof
31 is amended to read:

32 (f) “State officer,” as used in this section, means the Governor,
33 Lieutenant Governor, Attorney General, Controller, Insurance
34 Commissioner, Secretary of State, Superintendent of Public
35 Instruction, Treasurer, and member of the ~~State Board of~~
36 ~~Equalization~~ *California Tax Commission*.

37 Sixth—That subdivision (a) of Section 10 of Article VII
38 thereof is amended to read:

39 (a) No person who is found liable in a civil action for making
40 libelous or slanderous statements against an opposing candidate

1 during the course of an election campaign for any federal,
2 statewide, ~~Board of Equalization~~ *California Tax Commission*, or
3 legislative office or for any county, city and county, city, district,
4 or any other local elective office shall retain the seat to which he
5 or she is elected, where it is established that the libel or slander
6 was a major contributing cause in the defeat of an opposing
7 candidate.

8 A libelous or slanderous statement shall be deemed to have
9 been made by a person within the meaning of this section if that
10 person actually made the statement or if the person actually or
11 constructively assented to, authorized, or ratified the statement.

12 “Federal office,” as used in this section, means the office of
13 United States Senator and Member of the House of
14 Representatives; ~~and to. To the extent that the provisions of this~~
15 ~~section do~~ does not conflict with any ~~provision of~~ federal law, it
16 is intended that candidates seeking the office of United States
17 Senator or Member of the House of Representatives comply with
18 this section.

19 Seventh—That subdivision (j) of Section 3 of Article XIII
20 thereof is amended to read:

21 (j) (1) Immature forest trees planted on lands not previously
22 bearing merchantable timber, or planted or of natural growth on
23 lands from which the merchantable original growth timber stand,
24 to the extent of 70 percent of all trees over 16 inches in diameter,
25 has been removed. Forest trees or timber shall be considered
26 mature at such time after 40 years from the time of planting or
27 removal of the original timber when so declared by a majority
28 vote of a board consisting of a representative from the State
29 Board of Forestry, a representative from the ~~State Board of~~
30 ~~Equalization~~ *California Tax Commission*, and the assessor of the
31 county in which the trees are located.

32 ~~The~~

33 (2) ~~The~~ Legislature may supersede the foregoing provisions
34 with an alternative system or systems of taxing or exempting
35 forest trees or timber, including a taxation system not based on
36 property valuation. Any alternative system or systems shall
37 provide for exemption of unharvested immature trees, ~~shall~~
38 encourage the continued use of timberlands for the production of
39 trees for timber products, and ~~shall~~ provide for restricting the use
40 of timberland to the production of timber products and

compatible uses with provisions for taxation of timberland based on the restrictions. ~~Nothing in this~~ This paragraph shall *not* be construed to exclude timberland from the provisions of Section 8 of this article.

Eighth—That subdivision (g) of Section 11 of Article XIII thereof is amended to read:

(g) Any assessment made pursuant to ~~Section 11(a) to 11(d) subdivisions (a) to (d)~~, inclusive, ~~of this Article~~ shall be subject to review, equalization, and adjustment by the ~~State Board of Equalization~~ *California Tax Commission*, but an adjustment shall conform to the provisions of ~~these Sections~~ *those subdivisions*.

Ninth—That Section 17 of Article XIII is amended to read:

SEC. 17. The ~~Board of Equalization~~ *California Tax Commission* consists of ~~5~~ *nine* voting members: the Controller, ~~one member appointed by the Governor~~, and ~~4~~ *seven* members elected for ~~4-year~~ *four-year* terms at gubernatorial elections. The State shall be divided into ~~four~~ *Board of Equalization* ~~seven~~ *commission* districts with the voters of each district electing one member. ~~No~~ *A* member ~~may~~ *may* elected or appointed on or after November 6, 2006, shall not serve more than ~~2~~ *two* terms. *The Legislature shall enact by statute all laws necessary to carry out this section, including those statutes necessary to establish district boundaries.*

Tenth—That Section 17.5 is added to Article XIII thereof, to read:

SEC. 17.5. In addition to its other powers and duties granted by this Constitution, the California Tax Commission shall collect and administer taxes on or measured by income that are imposed on persons, corporations, or other entities as prescribed by law, and any taxes that are withheld from wages. The California Tax Commission shall also conduct administrative review of state tax matter determinations.

Eleventh—That Section 18 of Article XIII is amended to read:

SEC. 18. The ~~Board~~ *California Tax Commission* shall measure county assessment levels annually and shall bring those levels into conformity by adjusting entire secured local assessment rolls. In the event a property tax is levied by the State, however, the effects of unequalized local assessment levels, to the extent any remain after ~~such~~ *such* adjustments *made pursuant to this section*, shall be corrected for purposes of

1 distributing this tax by equalizing the assessment levels of locally
2 and state-assessed properties and varying the rate of the state tax
3 inversely with the counties' respective assessment levels.

4 Twelfth—That Section 19 of Article XIII is amended to read:

5 SEC. 19. The ~~Board~~ *California Tax Commission* shall
6 annually assess—~~(1)~~ (a) pipelines, flumes, canals, ditches, and
7 aqueducts lying within—~~2~~ *two* or more counties and—~~(2)~~ (b)
8 property, except franchises, owned or used by regulated railway,
9 telegraph, or telephone companies, car companies operating on
10 railways in the State, and companies transmitting or selling gas
11 or electricity. This property shall be subject to taxation to the
12 same extent and in the same manner as other property.

13 No other tax or license charge may be imposed on these
14 companies ~~which~~ *that* differs from that imposed on mercantile,
15 manufacturing, and other business corporations. This restriction
16 does not release a utility company from payments agreed on or
17 required by law for a special privilege or franchise granted by a
18 government body.

19 The Legislature may authorize ~~Board~~ *assessment of the*
20 *commission to assess* property owned or used by other public
21 utilities.

22 The ~~Board~~ *commission* may delegate to a local assessor the
23 duty to assess a property used but not owned by a state assessee
24 on which the taxes are to be paid by a local assessee.

25 Thirteenth—That subdivision (h) of Section 28 of Article XIII
26 thereof is amended to read:

27 (h) The taxes provided for by this section shall be assessed by
28 ~~the State Board of Equalization~~ *California Tax Commission*.

29 Fourteenth—That the ninth paragraph of subdivision (d) of
30 Section 22 of Article XX thereof is amended to read:

31 ~~The State Board of Equalization~~ *California Tax Commission*
32 shall assess and collect ~~such~~ *those* excise taxes as are or may be
33 imposed by the Legislature on account of the manufacture,
34 importation, and sale of alcoholic beverages in this State.

35 Fifteenth—That the heading of Article XXI thereof is
36 amended to read:

1 ARTICLE XXI
2 REAPPORTIONMENT OF SENATE, ASSEMBLY,
3 CONGRESSIONAL, AND ~~BOARD OF EQUALIZATION~~
4 CALIFORNIA TAX COMMISSION DISTRICTS
5

6 Sixteenth—That Section 1 of Article XXI is amended to read:

7 SECTION 1. In the year following the year in which the
8 national census is taken under the direction of Congress at the
9 beginning of each decade, the Legislature shall adjust the
10 boundary lines of the Senatorial, Assembly, Congressional, and
11 ~~Board of Equalization~~ *California Tax Commission* districts in
12 conformance with the following standards:

13 (a) Each member of the Senate, Assembly, Congress, and the
14 ~~Board of Equalization~~ *California Tax Commission* shall be
15 elected from a single-member district.

16 (b) The population of all districts of a particular type shall be
17 reasonably equal.

18 (c) Every district shall be contiguous.

19 (d) Districts of each type shall be numbered consecutively
20 commencing at the northern boundary of the State and ending at
21 the southern boundary.

22 (e) The geographical integrity of any city, county, or city and
23 county, or of any geographical region shall be respected to the
24 extent possible without violating the requirements of any other
25 subdivision of this section.